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OFFICE OF PETITIONS

In re Patent No. 8,005,925 :
McBrian et al. : ON REQUEST FOR
Issue Date: August 23, 2011 : RECONSIDERATION OF
Application No. 10/688,062 : PATENT TERM ADJUSTMENT
Filed: October 17, 2003 :
Atty Docket No. 58083-374957 :
(M060) :

This is in response to the "REQUEST FOR RECONSIDERATION OF
PATENT TERM INDICATED ON PATENT AND NOTIFICATION OF POSSIBLE
ERROR IN CALCULATION" filed October 3, 2011.

The request is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision.
No extensions of time will be granted under § 1.136(a).

Patentee requests that the patent term adjustment in the above-
identified patent be corrected from 2615 days to 2371 days.
Patentee states that USPTO did not account for the overlap
period beginning on October 17, 2006, the date that is three
years after the date on which the application was filed, and
June 19, 2007, the date of mailing an action under 35 U.S.C.
132.

The patent term adjustment has been reviewed, and it has been
determined that there was no error in calculation of the "B
delay." The 940 days for successful appellate review was
properly excluded from the over three year period of 1771 days,
resulting in a "B delay" of 831 days. Having excluded the 940

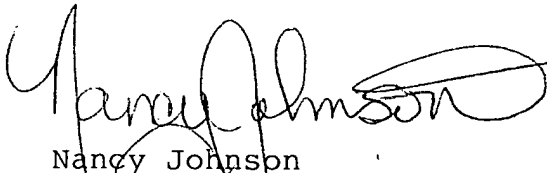
days, it was properly determined that there was no overlap of "A" and "B delay."

In view thereof, the patent properly issued with a revised patent term adjustment of 2615 days.

The \$200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 11-0855, as authorized. No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
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